IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 373 OF 2006

Sureshchandra Agarwal
& Ors. . .. Petitioners.

vs.

Div. Joint Registrar,
Co-op. Societies, Mumbai
& Ors. .. Respondents.

Ms. Rita Bhatia for petitioners.
Mr. P.M. Palshikar, AGP., for respondent nos.1 & 2.
Mr. Sachin Manale for R. nos. 3 to 5.

CORAM : S.U. KAMDAR, J.
DATE : 6th March, 2006.

P.C.:

. The present petition is challenging the order passed by the Divisional Joint Registrar, Co-operative Societies, Mumbai dated 22.12.2005 by which the appeal preferred by the petitioners challenging the order dated 3.12.2005 passed by the respondent no. 2 Deputy Registrar, Co-operative Societies under Section 78 (A) of the Maharashtra Co-operative Societies Act, 1960 is only modified by

substituting the single administrator by the board of administrators.

2. The proceedings arise out of a show cause notice issued on 12.1.2005. The charges which are mentioned in the show cause notice are that the bye laws copy is not submitted to the Registrar, the auditor who has been appointed for the year 2003-04 has been continuously auditing the accounts of the said society, the bonds are not filed within the period of 15 days as prescribed under the provisions of the Act and that permission under section 70 D of the Act is not obtained before opening the bank accounts. There are also charges that the tenders were not invited by publishing an advertisement for paining and repair work and that the donation details are not furnished. In my opinion, the charges which are levied by the Registrar while issuing a notice under Section 78 does not call for exercise of any power of appointment of administrator under Section 78 (1) of the said Act. The power of appointment of an administrator can be exercised by the Registrar only in a case of gross irregularity and of which the society is not likely to mend or there is a gross misappropriation of funds by the persons who are in the managing committee. For a mere trivial irregularity the power under Section 78 (1) of the said Act cannot be exercised. The learned advocate appearing for the

petitioners states that they are willing to furnish all the necessary details as asked by the Registrar within a period of two weeks from today. In the aforesaid circumstances, I am of the opinion that the power exercised of appointment of administrator cannot be justified. The impugned order is therefore unsustainable in law. Both the orders dated 3.12.2005 and the impugned order dated 22.12.2005 are quashed and set aside. Petition is made absolute accordingly. No order as to costs.